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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,073	03/16/2004	Leemon C. Baird III	TRO-0301C	3771
25/0/7 75/90 07/02/2008 LAW OFFICE OF DALE B. HALLING, LLC 655 SOUTHPOINTE CT, SUITE 100 COLORADO SPRINGS, CO 80906				
EXAMINER				
TRAORE, FATOUMATA				
ART UNIT		PAPER NUMBER		
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07/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/802,073

Applicant(s)

BAIRD ET AL.

Examiner

FATOUMATA TRAORE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 07 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 50-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 50-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response of the petition for revival of unintentionally abandoned application filed March 7, 2008, which cancelled claim 1 ; Claims 2-49 were previously cancelled; Claims 50-70 have been added; Claims 5-70 are pending and have been considered below.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: claim 70 recites the limitation of "means for" there is no antecedent basis in the specification.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 70 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

5. Claim 70 is drawn to a computer program per se. The applicant appears to be attempting to describe the component of the device by using "means for" language. However, the Examiner notes that the only "means" for performing these cited functions in the specification appears to be computer programs modules. A computer program is not a series of steps or acts and this is not a process. A computer program is not a

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physical article or object and as such is not a machine or manufacture. A computer program is not a combination of substances and therefore not a compilation of matter. Thus, a computer program by itself does not fall within any of the four categories of invention. Therefore, Claim 70 is not statutory.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 50-52, 55-56, 60-62, 65-66 and 70 are rejected under 35 U.S.C. 102(b) as being anticipated by Gullman et al (US 5,280,527).

Claims 50, 60 and 70: Gullman et al discloses a device for providing a user with a secure access to a network resource and a method for authenticating a user to a device, comprising:

A memory storing data related to at least one of accounts and preferences

(memory stores a template of authorized user) (column 2, lines 48-55); and

A processor coupled to the memory(*Fig. 2*), the processor authenticating the user with the device by verifying a device password and a user biometric that are specific to the device *(upon entry of the cardholder's biometric information, the processor executes the verification algorithm) (column 2, lines 53-55) and transmitting a resource password (token) to establish a connection to the network*

resource, the resource password being unknown to the user and specific to the network resource (*the verification algorithm uses the template data, the biometric input, a fixed code (i.e., PIN embedded serial number, account number) and time-varying self-generated information to derive a token output. In an alternative embodiment, the token output is transmitted directly to the host system through a direct data communication line, eliminating the need for manual entry by the user*) (column 2, lines 55-65).

Claims 51 and 61: Gullman et al discloses a device for providing a user with a secure access to a network resource and a method for authenticating a user to a device, as in claims 50 and 60 above, and further discloses wherein the user is granted access to the memory upon verification (*the access device 12 transmits the token to the host 10 which decrypts or decodes the token to derive the fixed code and correlation factor. If the fixed code identifies a valid user and the correlation factor is above the threshold level, then access is permitted*) (column 6, lines 37-45).

Claims 52 and 62: Gullman et al discloses a device for providing a user with a secure access to a network resource and a method for authenticating a user to a device, as in claims 51 and 61 above, and further discloses wherein a duress password is entered for the verification, the duress password being predetermined to be used when an access to the device is intended to be denied(*In other embodiments, the security apparatus need not notify the user that the biometric entry was invalid. Instead an invalid token is displayed, so that*

upon input to the access device 12 access to the host system 10 is denied and the host is informed of an access attempt) (column 3, lines 50-55).

Claim 55 and 65: Gullman et al discloses a device for providing a user with a secure access to a network resource and a method for authenticating a user to a device, as in claims 50 and 60 above, and further discloses wherein the user biometric is at least one of a path and a speed era use of an input device, a fingerprint description, an iris scan, and a voice print (*column 3, lines 55-67; column 5, lines 42-55*).

Claims 56 and 66: Gullman et al discloses a device for providing a user with a secure access to a network resource and a method for authenticating a user to a device, as in claims 55 and 65 above, and further discloses wherein the path and the speed of the use of the input device include a signature of the device password to combine the device password and the biometric for the verification(*column 3, lines 55-67; column 5, lines 42-55*).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 54, 57-59, 64 and 67-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gullman et al (US 5,280,527) in view of Chou et al (US 5,638,444).

Claims 54 and 64: Gullman et al discloses a device for providing a user with a secure access to a network resource and a method for authenticating a user to a device, as in claims 50 and 61 above, but does not explicitly disclose wherein the data of the memory is encrypted, the data being decrypted with a device dependent key specific to the device. However, Chou et al discloses a secure computer communication method and device, which further discloses wherein the data of the memory is encrypted, the data being decrypted with a device dependent key specific to the device (*column 1, lines 20-65*). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Gullman et al such as to decrypt the data by using a device dependant key. One would have been motivated to do so in order to provide secure and ciphered communication between any types of computer as taught by Chou et al (*column 1, lines 5-10*).

Claims 57 and 67: Gullman et al discloses a device for providing a user with a secure access to a network resource and a method for authenticating a user to a device, as in claims 50 and 60 above, but does not explicitly disclose that a true random number generator generating the resource password. However, Chou et al discloses a secure computer communication method and device, which further discloses that a true random number generator generating the resource password (*column 1, lines 34-40; Fig. 2*). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Gullman et al such as to use a random number generator

to generate the session key. One would have been motivated to do so in order to provide secure and ciphered communication between any types of computer as taught by Chou et al (*column 1, lines 5-10*).

Claims 58 and 68: Gullman et al discloses a device for providing a user with a secure access to a network resource and a method for authenticating a user to a device, as in claims 50 and 60 above, but does not explicitly disclose wherein the resource password is generated at a predetermined time for the access to the network resource.

However, Chou et al discloses a secure computer communication method and device, which further discloses wherein the resource password is generated at a predetermined time for the access to the network resource (*Fig. 2*). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Gullman et al such as to generate the resource password at a predetermined time. One would have been motivated to do so in order to provide secure and ciphered communication between any types of computer as taught by Chou et al (*column 1, lines 5-10*).

Claims 59 and 69: Gullman et al discloses a device for providing a user with a secure access to a network resource and a method for authenticating a user to a device, as in claims 55 and 60 above, but does not explicitly disclose wherein communications with the network resource are encrypted. However, Chou et al discloses a secure computer communication method and device, which further discloses wherein communications with the network resource are encrypted

(*column 1, lines 20-65*). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Gullman et al such as to encrypt the communication with the network resource. One would have been motivated to do so in order to provide secure and ciphered communication between any types of computer as taught by Chou et al (*column 1, lines 5-10*).

10. Claims 53 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gullman et al (US 5,280,527) in view of Orton et al (US 6,684,261).

Claims 53 and 63: Gullman et al discloses a device for providing a user with a secure access to a network resource and a method for authenticating a user to a device, as in claims 52 and 62 above, but does not explicitly disclose wherein the entry of the duress password replaces the data of the memory with non-sensitive data. However, Chou et al discloses a secure computer communication method and device, which further discloses wherein the entry of the duress password replaces the data of the memory with non-sensitive data (*column 19, lines 25-45*). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teaching of Gullman et al such as to replace sensitive data with non sensitive data upon a entering a duress password. One would have been motivated to do so in order to provide data integrity

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fatoumata Traore whose telephone number is (571) 270-1685. The examiner can normally be reached Monday through Thursday from 7:00 a.m. to 4:00 p.m. and every other Friday from 7:30 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nassar G. Moazzami, can be reached on (571) 272 4195. The fax phone number for Formal or Official faxes to Technology Center 2100 is (571) 273-8300. Draft

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or Informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 270-2685.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-2100.

FT

Wednesday June 25, 2008

/Nasser G Moazzami/

Supervisory Patent Examiner, Art Unit 2136